

**THE WHITE HOUSE OFFICE  
REFERRAL**

May 31, 2011

**TO:** ENVIRONMENTAL PROTECTION AGENCY

**ACTION COMMENTS:**

**ACTION REQUESTED:** APPROPRIATE ACTION

**REFERRAL COMMENTS:**

**DESCRIPTION OF INCOMING:**

**ID:** 1056373

**MEDIA:** EMAIL

**DOCUMENT DATE:** May 26, 2011

**TO:** PRESIDENT OBAMA

**FROM:** THE HONORABLE KENT CONRAD  
UNITED STATES SENATE  
WASHINGTON, DC 20510

**SUBJECT:** WRITES TO ASK THE ADMINISTRATION TO RAPIDLY FINALIZE A RULE  
REGULATING COAL COMBUSTION RESIDUES (CCRs) UNDER SUBTITLE D THE  
NON-HAZARDOUS SOLID WASTE PROGRAM OF THE RESOURCE CONSERVATION  
AND RECOVERY ACT (RCRA)

**COMMENTS:**

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**PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.**

**RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 85, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500  
FAX A COPY OF RESPONSE TO: (202) 456-5881**

**THE WHITE HOUSE  
DOCUMENT MANAGEMENT AND  
TRACKING WORKSHEET**



**DATE RECEIVED:** May 31, 2011

**CASE ID:** 1056373

**NAME OF CORRESPONDENT:** THE HONORABLE KENT CONRAD

**SUBJECT:** WRITES TO ASK THE ADMINISTRATION TO RAPIDLY FINALIZE A RULE REGULATING COAL COMBUSTION RESIDUES (CCRs) UNDER SUBTITLE D THE NON-HAZARDOUS SOLID WASTE PROGRAM OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

**ROUTE TO:  
AGENCY/OFFICE**

**(STAFF NAME)**

**ACTION**

**DISPOSITION**

**CODE**

**DATE**

**TYPE  
RESPONSE**

**CODE**

**DATE  
COMPLETED**

LEGISLATIVE AFFAIRS

ROB NABORS

ORG

05/31/2011

**ACTION COMMENTS:**

✓ ENVIRONMENTAL PROTECTION AGENCY

A

05/31/2011

**ACTION COMMENTS:**

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**ACTION COMMENTS:**

**COMMENTS:** 43 ADDL SIGNEES

**MEDIA TYPE:** EMAIL

**USER CODE:**

ACTION CODES	DISPOSITION		
<b>A</b> = APPROPRIATE ACTION <b>B</b> = RESEARCH AND REPORT BACK <b>D</b> = DRAFT RESPONSE <b>I</b> = INFO COPY/NO ACT NECESSARY <b>R</b> = DIRECT REPLY W/ COPY <b>ORG</b> = ORIGINATING OFFICE	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	<b>A</b> = ANSWERED OR ACKNOWLEDGED <b>C</b> = CLOSED <b>X</b> = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES

REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2690

SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 85, EEOB.

**Scanned By  
ORM**

United States Senate  
WASHINGTON, DC 20510

May 26, 2011

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Obama:

In November, the public comment period concluded on the Environmental Protection Agency's (EPA's) proposed rulemaking for the regulation of coal combustion residues (CCRs). We write to ask the Administration to rapidly finalize a rule regulating CCRs under subtitle D, the non-hazardous solid waste program of the Resource Conservation and Recovery Act (RCRA).

The release of CCRs from the Tennessee Valley Authority impoundment in December 2008 properly caused the EPA to consider whether CCR impoundments and landfills should meet more stringent standards. All operators should meet appropriate standards, and those who fail to do so should be held responsible. We believe regulation of CCRs under subtitle D will ensure proper design and operations standards in all states where CCRs are disposed.

A swift finalization of regulations under subtitle D offers the best solution for the environment and for the economy. The environmental advantages of the beneficial use of CCRs in products such as concrete and road base are well-established. For example, a study released by the University of Wisconsin and the Electric Power Research Institute in November 2010 found that the beneficial use of CCRs reduced annual greenhouse gas emissions by an equivalent of 11 million tons of carbon dioxide, annual energy consumption by 162 trillion British thermal units, and annual water usage by 32 billion gallons. These numbers equate to removing 2 million cars from our roads, saving the energy consumed by 1.7 million American homes, and conserving 31 percent of the domestic water used in California.

We are concerned that finalizing a rule regulating CCRs under subtitle C of RCRA rule would permanently damage the beneficial use market. Since the EPA first signaled its possible intention to regulate CCRs under subtitle C, financial institutions have withheld financing for projects using CCRs, and some end-users have balked at using CCRs in their products until the outcome of the EPA's proposed rulemaking is known. Already, beneficial use of CCRs has decreased, and landfill disposal has increased. This result is counterproductive but likely to continue as long as the present regulatory uncertainty persists.

The Honorable Barack Obama  
May 26, 2011  
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State environmental protection agencies have cautioned the EPA that regulating CCRs under subtitle C will overwhelm existing hazardous waste disposal capacity and strain budget and staff resources. Moreover, the bureaucratic and litigation hurdles involved in a subtitle C rule could lead to long delays before storage sites are upgraded or closed, resulting in slower environmental protection.

In two prior reports to Congress, the EPA concluded that disposed CCRs did not warrant regulation under subtitle C of RCRA. Despite this prior conclusion, the EPA's proposed subtitle C option would regulate CCRs more stringently than any other hazardous waste by applying the subtitle C rules to certain inactive and previously closed CCR units. The EPA has never before interpreted RCRA in this manner in over 30 years of administering the federal hazardous waste rules. The subtitle C approach is not supportable given its multiple adverse consequences and the availability of an alternative, less burdensome regulatory option under RCRA's non-hazardous waste rules that, by the EPA's own admission, will provide an equal degree of protection to public health and the environment.

In conclusion, we request that the Administration finalize a subtitle D regulation as soon as possible. The states and the producers of CCRs have raised concerns that should be corrected in a final subtitle D rule, including ensuring that any subtitle D regulations are integrated with and administered by state programs. Subtitle D regulation will improve the standards for CCR disposal, ensure a viable market for the beneficial use of CCRs, and achieve near-term meaningful environmental protection for disposed CCRs.

Thank you very much for your consideration of this important matter. We look forward to your response and to working with you to address this issue in a manner that is both environmentally and economically sound.

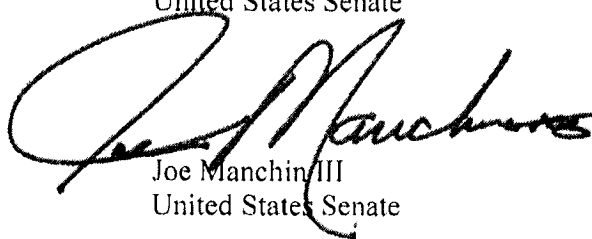
Sincerely,



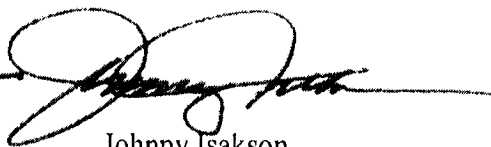
Kent Conrad  
United States Senate



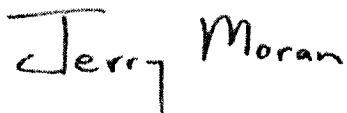
Michael B. Enzi  
United States Senate



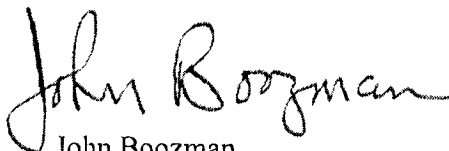
Joe Manchin III  
United States Senate



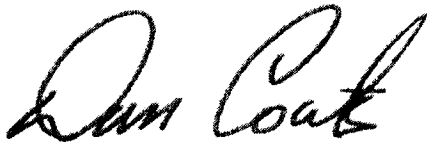
Johnny Isakson  
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Jerry Moran  
United States Senate



John Boozman  
United States Senate



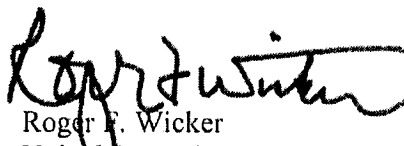
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United States Senate



Roy Blunt  
United States Senate



John Hoeven  
United States Senate



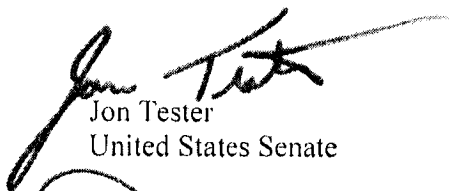
Roger F. Wicker  
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Thad Cochran  
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Claire McCaskill  
United States Senate



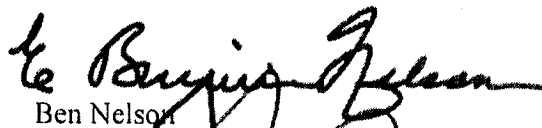
Jon Tester  
United States Senate



Lisa Murkowski  
United States Senate



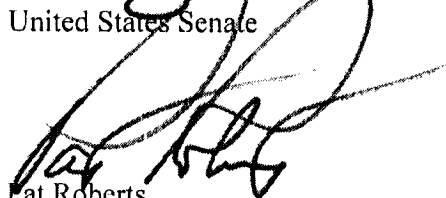
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United States Senate



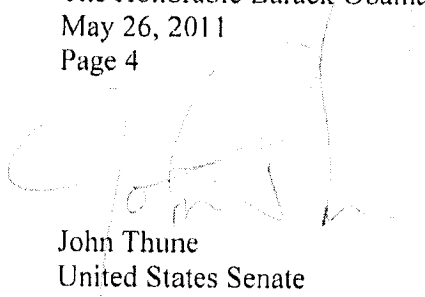
Ben Nelson  
United States Senate



John Barrasso  
United States Senate




Pat Roberts  
United States Senate



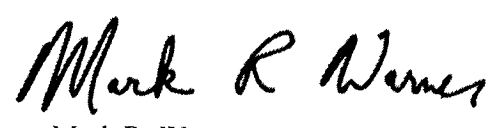
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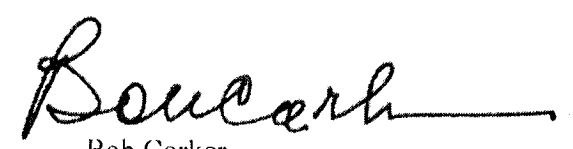
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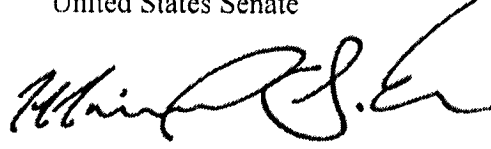
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United States Senate



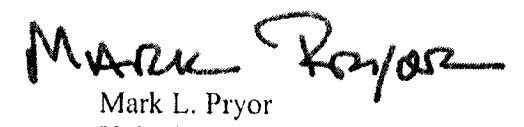
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United States Senate



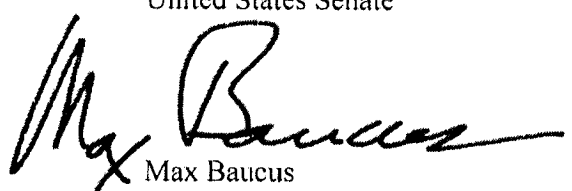
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United States Senate




Mike Lee  
United States Senate



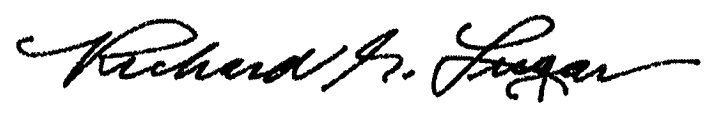
Mark L. Pryor  
United States Senate



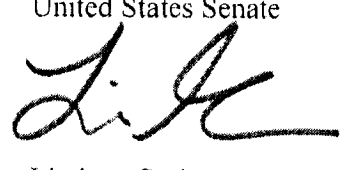
Max Baucus  
United States Senate




Richard Burr  
United States Senate



Richard G. Lugar  
United States Senate



Lindsey Graham  
United States Senate

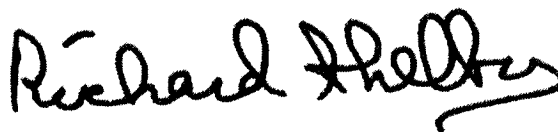



Rob Portman  
United States Senate



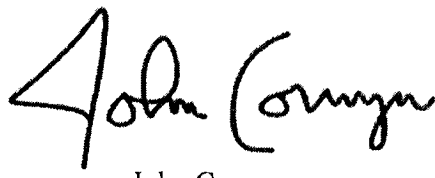
Jim DeMint  
United States Senate

Richard C. Shelby  
United States Senate







Patrick J. Toomey  
United States Senate




John Cornyn  
United States Senate



Dean Heller  
United States Senate



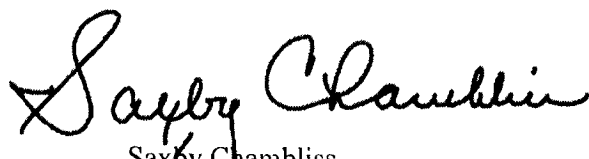
Lamar Alexander  
United States Senate



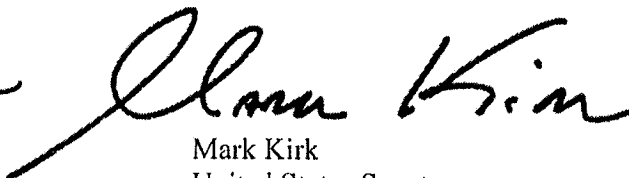
Mark Begich  
United States Senate



Chuck Grassley  
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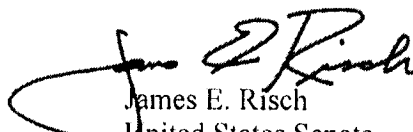
Saxby Chambliss  
United States Senate




Mark Kirk  
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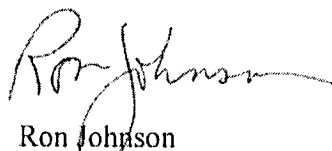
Herb Kohl  
United States Senate



James E. Risch  
United States Senate



John D. Rockefeller IV  
United States Senate



Ron Johnson  
United States Senate